
TITLE 460 DIVISION OF DISABILITY AND REHABILITATIVE SERVICES

Economic Impact Statement

LSA Document #11-407

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

IC 4-22-2.1-5(a) provides that an agency that intends to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses must prepare a statement that describes the annual economic impact of the rule on small businesses after the rule is fully implemented as described in IC 4-22-2.1-5(b).

LSA Document #11-407 proposes to amend 460 IAC 6-2 to include OMPP's authority to override any rule related to the home and community based services waiver, amend 460 IAC 6-3 to delete and add various definitions, amend 460 IAC 6-4 to reference the most current waiver documents and DDRS policy manual, add 460 IAC 6-4.5 to include a conflict of interest provision, amend 460 IAC 6-6 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-7 to include monitoring requirements consistent with the DDRS policy manual, amend 460 IAC 6-9 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-10 to include protocol outlined in the DDRS policy manual and residency status requirements, amend 460 IAC 6-11 to include financial requirements, amend 460 IAC 6-12 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-14 to include qualifications outlined in the DDRS policy manual, amend 460 IAC 6-15 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-16 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-17 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-24 to ensure proper management of an individual's finances, amend 460 IAC 6-25 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-29 to include protocol outlined in the DDRS policy manual, amend 460 IAC 6-36 to include ethics protocol outlined in the DDRS policy manual, add 460 IAC 6-37 to include BDDS as the placement authority for persons with a developmental disability, add 460 IAC 6-38 to include auto-assignment for individuals who do not follow specified time frames, add 460 IAC 6-39 to include a 30 day public review period for DDRS policies, and repeal 460 IAC 6-5, 460 IAC 6-13, 460 IAC 6-18 through 460 IAC 6-23, 460 IAC 6-26 through 460 IAC 6-28, and 460 IAC 6-30 through 460 IAC 6-35.

Economic Impact on Small Businesses**1. Estimated Number of Small Businesses Subject to this Rule:**

IC 5-28-2-6 defines a small business as a business entity that satisfies the following requirements:

- (1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.
- (2) The majority of the employees of the business entity work in Indiana.

The proposed rule updates the regulations guiding providers of supported living services to make them consistent with the most recently approved HCBS Medicaid waiver. The Division of Disability and Rehabilitative Services (DDRS) estimates that at least 360 approved providers meet the above definition of a small business. Because the proposed rule will likely impose requirements on small business, DDRS is required to prepare a report describing the economic impact of the rule in accordance with IC 4-22-2.1-5.

2. Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur:

DDRS estimates that the proposed rule change will not impose administrative costs on small businesses above what is already required. The proposed rule change merely updates state guidelines in order to align them with the most recently approved HCBS waiver regulations governing the provider community. In fact, the proposed rule change will eliminate the inconsistency between federal and existing state regulations, thus resulting in more efficient record keeping and reporting requirements. Accordingly, the proposed rule change is not expected to result in an increase in reporting, record keeping, or other administrative costs.

3. Estimated Total Annual Economic Impact on Small Businesses to Comply:

Notwithstanding the fact that providers are already complying with current requirements and procedures under 405 IAC 6, the proposed rule change will have some economic impact on small businesses, though such effect is impossible to quantify. However, DDRS estimates that any negative economic impact of the proposed rule change will be de minimis. As stated above, small businesses are already familiar with requirements and procedures under the current HCBS waiver. The proposed rule is not expected to impose any additional administrative expenses on small business providers. The ultimate effect of the proposed rule change is that small businesses will no longer be operating under conflicting and confusing state regulations. As such, the overall impact of the proposed rule change is expected to be positive.

4. Justification Statement of Requirement or Cost:

The proposed rule is necessary to align outdated state regulations with regulations in the most recently

approved HCBS waiver and the associated policies.

5. Regulatory Flexibility Analysis:

A. Establishment of less stringent compliance or reporting requirements for small businesses.

DDRS has determined that there are no other less stringent compliance or reporting requirements.

Standards must be in place to comply with federal rules and the most recently approved HCBS waiver.

B. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

There are person-centered performance standards for individuals small business providers serve, as well as regulatory standards set forth in the most recently approved HCBS waiver.

C. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.

DDRS has determined that it cannot exempt small businesses from regulations in regards to the HCBS Medicaid waiver program due to federal regulations and oversight requirements.

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